



**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 22nd OF AUGUST, 2024

CRIMINAL APPEAL No. 8510 of 2018

RAVINDRA @ RAVI

Versus

THE STATE OF MADHYA PRADESH

Appearance:

Shri Gourav Laad, learned *amicus curiae* for the appellant

Shri Virendra Khadav, learned counsel for the respondent/State.

JUDGEMENT

1] This appeal has been preferred by the appellant Ravindra @ Ravi S/o Sitaram Dondwe under Section 374 of Cr.P.C. against the judgement dated 05/10/2018, passed in Special Case No.127/2017 by the 15th Additional Sessions Judge, Indore (M.P.) whereby finding the appellant guilty, the learned Judge of the Trial Court has convicted the appellant as under:-

Conviction		Sentence		
Section	Act	Imprisonment	Fine	Imprisonment in lieu of fine
354	IPC	1 year RI	1,000/-	1 year RI
9(m)/10	POCSO Act	5 years RI	2,000/-	2 months RI

2] Admittedly, as per the report dated 02/08/2023, sent by the Central Jail, Indore, the appellant has already completed his sentences and has been released from the jail on 16.03.2022. Since nobody has appeared on



behalf of the appellant, this Court has appointed Shri Gourav Laad, Advocate as *amicus curiae* to assist this Court.

3] In brief, the facts giving rise to the present appeal are that the FIR in the present case was lodged u/s.354 of IPC and u/ss.7/8 of the Protection of Children From Sexual Offences Act, 2012 by the complainant Sunita Tiwari on 22/06/2017 at 17:23 hours in respect of the incident which took place on the same day at around 14:15 hours. It was alleged that the complainant's daughter was playing in the building, in which, on the upper floor, the appellant was engaged in painting work and when the daughter of the complainant came down, she informed that the appellant touched her inappropriately by indulging in indecent behaviour. Thus, the report was lodged, and subsequently the charge sheet was filed, and the learned Judge of the trial Court after recording the evidence, has convicted the appellant as aforesaid, hence this appeal.

4] Learned counsel for the appellant has submitted that there is no material available on record to connect the appellant with the offence except the oral testimony of the witness. Counsel has also submitted that a dispute was going on between the parties which led the complainant to lodge the aforesaid false complaint, and even the victim has admitted that on the earlier date when she had come to the Court, she was told by some person as to what statement she should give in the Court. Thus, it is submitted that the victim being tutored, her testimony cannot be relied upon. Hence, it is submitted that the appeal be allowed and the appellant be acquitted.

5] On the other hand, learned counsel for the respondent/State has opposed the prayer and it is submitted that no case for interference is



made out.

6] Heard learned counsel for the parties and perused the record.

7] Having considered the rival submissions and on perusal of the record, it is found that so far as the victim is concerned, she was around 5 years old, which is proved by the discharge card (Ex.P/5) of her mother from the hospital which was prepared at the time when the victim was born, according to which, the date of birth of the victim is 21/10/2012, whereas the date of incident is 22/06/2017. Thus, apparently, the victim was a tender aged girl of around 4-5 years. On perusal of the testimony of the victim, it is found that she has stated that when she went to the room of the appellant, he undressed her and also kissed her repeatedly, and also shown his penis to her and was also moving his hand on her vagina. She has remained almost unshaken in her cross examination, and merely because she has stated that on the last date of hearing, when the matter was fixed before the trial Court, some uncle told her about her statement, it cannot be presumed that she was tutored, specially when she has not been suggested any defence by the defence counsel.

8] Similar is the situation of the other prosecution witnesses who have not been suggested any defence, and who have clearly supported the statements given by the parents of the victim who have supported their daughter's version.

9] It is also found that the appellant was engaged in some painting work of the landlord where the complainant was residing as tenant and thus, there was no business or no transaction between the appellant and the complainant party which may propel the complainant to lodge such a complaint against him involving their tender aged daughter.



10] In such facts and circumstances of the case, this Court is of the considered opinion that no illegality has been committed by the learned Judge of the trial Court in holding that the appellant is liable to be convicted for outraging the modesty of the victim and under the provisions of Protection of Children From Sexual Offences Act, and his conviction needs no interference.

11] Accordingly, criminal appeal being devoid of merits is hereby *dismissed*.

12] This Court appreciate the assistance extended by Shri Gourav Laad, the *amicus curiae*.

Sd/-

(SUBODH ABHYANKAR)
JUDGE

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